

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TONY SKANNELL,

Defendant.

8:02CR353

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's Motion to Reduce Sentence, ECF No. 859. He seeks relief pursuant to the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (2010), effective August 3, 2010, which reduced the penalties for certain crack cocaine offenses. Although the Defendant was sentenced before the effective date of the Fair Sentencing Act, the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018), at § 404, permits sentencing judges to apply the Fair Sentencing Act to sentences imposed before August 3, 2010.

Following a jury trial, the Defendant Tony Skannell was found guilty of Count I of the Indictment, charging him with conspiracy to distribute or possess with intent to distribute 50 grams or more of cocaine base. His mandatory minimum term was enhanced to 20 years pursuant to 21 U.S.C. § 841(b)(1)(A) and 21 U.S.C. § 851, because he was found responsible for 510 grams of cocaine base and he had prior felony convictions for crimes of violence.

Skannell was sentenced on October 18, 2004, to a term of 360 months imprisonment and five years of supervised release. He appealed and, pending his appeal, the Supreme Court issued its decision in *United States v. Booker*, 543 U.S. 220

(2005), declaring the U.S. Sentencing Guidelines to be advisory. Accordingly, the matter was remanded to this Court for re-sentencing pursuant to *Booker*. On June 7, 2007, he was re-sentenced and received the same sentence, which was the lowest end of the guideline range of 360 to life.

While § 401 of the First Step Act reduces and restricts enhanced sentencing for prior drug felony convictions and prior serious violent felony convictions, that portion of the First Step Act has no retroactive application. If the Fair Sentencing Act had been in effect at the time of Skannell's sentencing, his Base Offense Level, Total Offense Level, and range of imprisonment under the Guidelines would have remained unchanged. Accordingly, the First Step Act provides him no relief.

IT IS ORDERED:

1. The Defendant's Motion to Reduce Sentence, ECF No. 859, is denied;
and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 4th day of March 2019.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge